

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

TREVONN JOHNSON,

Plaintiff,

v.

WELLPATH and ST. JOSEPH COUNTY
JAIL,

Defendants.

CAUSE NO. 3:23-CV-593-DRL-MGG

OPINION AND ORDER

TreVonn Johnson, a prisoner without a lawyer, filed a complaint duplicating claims he is raising in another lawsuit. ECF 1. “A document filed *pro se* is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quotations and citations omitted). Nevertheless, under 28 U.S.C. § 1915A, the court must review the merits of a prisoner complaint and dismiss it if the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.

Mr. Johnson alleges Wellpath denied him adequate medical treatment at the St. Joseph County Jail. These same claims (and others) were included in his amended complaint in *Johnson v. Kayla*, 3:23-cv-219 (N.D. Ind. filed March 17, 2023). The only addition in this case is the inclusion of the St. Joseph County Jail as a defendant. However, that is a distinction without a difference because the jail is a building; it is not a suable

entity. *Smith v. Knox County Jail*, 666 F.3d 1037, 1040 (7th Cir. 2012). It is malicious to sue the same defendant for the same claims in two lawsuits.

“The usual standard in civil cases is to allow defective pleadings to be corrected, especially in early stages, at least where amendment would not be futile.” *Abu-Shawish v. United States*, 898 F.3d 726, 738 (7th Cir. 2018). However, “courts have broad discretion to deny leave to amend where . . . the amendment would be futile.” *Hukic v. Aurora Loan Servs.*, 588 F.3d 420, 432 (7th Cir. 2009). It is unnecessary to allow Mr. Johnson to amend in this case because these claims will be dismissed without prejudice so he can litigate them in 3:23-cv-219 where they were previously raised.

For these reasons, this case is DISMISSED WITHOUT PREJUDICE as malicious under 28 U.S.C. § 1915A because TreVonn Johnson is already suing Wellpath based on these same events in 3:23-cv-219.

SO ORDERED.

August 10, 2023

s/ Damon R. Leichty
Judge, United States District Court